



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
G. A. (Andy) Morris, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, April 17, 2013

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council Member Anthony Coleman, Ward 5

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20130291 Distinguished Budget Presentation Award

Presentation of the Distinguished Budget Presentation Award to Lori Duncan, Budget Manager, and Sam Lady, Finance Director, for their presentation of the Fiscal Year 2013 Budget Book. The award is the highest form of recognition in governmental budgeting and represents a significant achievement by the City. This is the 18th consecutive year that the Finance Department has received this award.

20130335 Distinguished Service Award

Presentation of a Distinguished Service Award to Kenneth Carter for his service on the Planning Commission from January 2004 - March 2013.

PROCLAMATIONS:

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

* **20130354 Regular Meeting - March 6, 2013**

Review and approval of the March 6, 2013 regular meeting minutes.

MAYOR'S APPOINTMENTS:

20130308 Marietta Housing Authority Appointment(s)

Appointment of Chervonta "Taye" Pugh to the Marietta Housing Authority Board for a one year term expiring April 29, 2014.

CITY COUNCIL APPOINTMENTS:**ORDINANCES:**

**20130233 Z2013-12 Todd Cohen (The Sutton Group) 380, 382, 384, 386, 376 and 378
Roselane Street and 823 and 835 Cogburn Avenue**

Z2013-12 [REZONING] TODD COHEN (THE SUTTON GROUP) request rezoning for property located in Land Lot 10140, District 16, Parcels 0880, 0870, 0860, 0850, 070, 0780, 0900 and 0890, 2nd Section, Marietta, Cobb County, Georgia and being known as 380, 382, 384, 386, 376 and 378 Roselane Street and 823 and 835 Cogburn Avenue from R-2 (Single Family Residential 2 units/acre) to OI (Office Institutional). Ward 4.

Planning Commission recommends approval w/stipulations

Vote: 4 – 0 – 0

Motion: Mr. Waters made the motion to approve, seconded by Mr. Storey.

Stipulations:

- 1. Variance to reduce the required buffer against residential from 30 feet to 10 feet.*
- 2. Variance to allow the buffer be disturbed and replanted.*
- 3. Variance to increase the allowable impervious surface from 80% to 85%.*
- 4. Variance to measure the 10' planted border area from the back of the sidewalk rather than the right of way line.*
- 5. Variance to reduce two sections of the 10' planted border area, measured from the back of the sidewalk, to 8' where the sidewalk curves around the utility poles.*
- 6. Variance to allow small canopied trees in the planted strip/border area where there are overhead utility conflicts.*
- 7. Variance to waive the requirement that there be no more than twelve (12) parking spaces in a row without a planter island.*
- 8. Variance to waive the two planter islands required at the southeastern corner of the building, and the one planter island at the northwestern corner of the building.*
- 9. Variance to waive the required placement of a tree in the planter island with the monument sign at the southeastern entrance/exit to Cogburn Avenue.*
- 10. Variance to increase the width of a curb cut from 30 feet to 38 feet (travelway) or 40 feet (face of curb to face of curb).*

PUBLIC HEARING (all parties are sworn in)

20130234 Z2013-13 North River Church of Christ, Inc., 320 Austin Avenue

Z2013-13 [REZONING] NORTH RIVER CHURCH OF CHRIST, INC. request rezoning for property located in Land Lot 11640, District 16, Parcel 0020, 2nd Section, Marietta, Cobb County, Georgia and being known as 320 Austin Avenue from R-4 (Single Family Residential 4 units/acre) to OI (Office Institutional). Ward 5.

Planning Commission recommends approval w/stipulations

Vote: 4 – 0 – 0

Motion: Mr. Storey made a motion, seconded by Mrs. Richardson.

Stipulations:

- 1. Variance to reduce the landscape buffer from 30 feet to 11 feet where the interior driveway encroaches upon the landscape buffer. [Section 708.23(I)].*
- 2. Variance to waive the requirement that a buffer must consist of a wall or fence. [Section 710.05(D) Buffers].*

PUBLIC HEARING (all parties are sworn in)

RESOLUTIONS:**CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson***** 20130328 FY'12 Housing Rehabilitation-Service Delivery**

Approval of a Resolution amending the FY' 12 Housing Rehabilitation Budget to specify \$50,000 as eligible reimbursable service delivery expenses.

*** 20130330 111/113 Hedges St. CDBG Slum and Blight Demolition**

Approval of a Resolution authorizing the use of FY/11 CDBG Slum and Blight Clearance Funds for demolition of 111-113 Hedges Street.

20130385 Urban Redevelopment Bond

Approval of a Resolution of the City of Marietta declaring the necessity to exercise its powers conferred by the Urban Redevelopment Law for the Urban Redevelopment Bond.

20130397 Urban Redevelopment

Motion to authorize and direct the City Attorney to publish notice of a public hearing to be held on May 8, 2013 (or at a later date as chosen by the Mayor and Council) which public hearing shall authorize public comment upon any urban redevelopment area to be considered by the City of Marietta and any urban redevelopment project considered by the City of Marietta as well as any urban redevelopment plan to be considered by the City of Marietta. The legal notice shall include any and all other requirements set forth in the Urban Redevelopment Law, O.C.G.A. 36-6-1, et seq.

20130389 Bond Advisors

Motion to employ Dianne McNabb, PFM Group as Financial Consultant for a fee not to exceed \$35,000 and Teresa P. Finister of Murray, Barnes, Finister, LLP as Bond Counsel for a fee not to exceed \$45,000 and to serve as Disclosure Counsel for a fee not to exceed \$35,000 contingent upon the Urban Redevelopment Bond issue passing.

2. Finance/Investment: Annette Lewis, Chairperson*** 20130327 Weed & Seed Fund**

Approval of an Ordinance amending the Fiscal Year 2013 Weed and Seed Fund to appropriate additional revenue and expenditures in order to close out the Fund.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 20130322 Revised Detailed Plan for Manget Phase I**

Motion to approve the Revised Detailed Plan for Manget Phase I located in Land Lots 1287 and 1288, District 16, 2nd Section, Marietta, Cobb County, Georgia. The purpose of this request is to

1. Convert the twenty (20) remaining, unbuilt townhome lots into thirteen (13) single family detached lots.
2. Convert seven (7) single family parcels into four (4) single family parcels.

* **20120531 IMAGE Agreement**

Motion authorizing the City of Marietta to submit the materials needed to become IMAGE certified and approve the IMAGE Agreement with ICE.

* **20130177 Certified City of Ethics**

Approval of a "Certified City of Ethics" Resolution and authorization for staff to submit the resolution and the City of Marietta Code of Ethics Ordinance to the Georgia Municipal Association for application to their "Certified City of Ethics" program.

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20130323 Playground Equipment Donation and Reinstallation**

Motion authorizing the city to receive playground equipment from the Marietta Housing Authority from the Boston Homes and Fort Hill sites, and authorize the placement of the Fort Hill equipment in Birney Park. Further, to authorize the expenditure of \$17,000 to employ a manufacturer authorized and certified playground installer to remove and install the Fort Hill equipment, and install drainage improvements and certified playground safety surfacing.

* **20130324 Intergovernmental Agreement - Lake Park**

Motion authorizing staff to prepare an Intergovernmental Agreement with Marietta City Schools for long-term use of property currently known as Lake Park.

*** 20130338 Juneteenth Celebration**

Motion approving a request for city sponsorship of the Juneteenth Celebration Festival sponsored by the Cobb County Branch of the NAACP on Friday, June 14 and Saturday, June 15, 2013 and approve the temporary street closures of North Park Square, East Park Square from 2:00 am to 8:00 pm, and Lawrence St (Cherokee St. to Waddell St) from 7:00 AM to 8:00 PM on Saturday, June 15. Conditions of the motion to include the following:

The Cobb County Branch of the NAACP are fully responsible for the trash cleanup and removal of all trash generated by the event from the confines of the Marietta Square and the Central Business District. Trash removal from these confines may be accomplished through private means, or the organizers may utilize a city trash truck and driver for the event at a rate of \$67.85 per hour. Cobb County Branch of the NAACP shall notify the Parks, Recreation and Facilities Department fourteen (14) days in advance if they intend to utilize the city sanitation vehicle.

If the Cobb County Branch of the NAACP fails to adequately clean the event area of trash and debris and remove said trash and debris from the Central Business District they will be billed for any city services required to accomplish the cleanup of the area.

20130336 Victory Park Improvements

Motion approving the Victory Park Conceptual Plan with funding approval not to exceed \$600,000 with \$200,000 of funding from the 2009 Parks Bond, Category B, Improvements to Existing Parks and Facilities; and, up to \$400,000 from Category C, Development of Parks, Facilities and Trails and Greenspace (new and existing).

5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

*** 20130311 Traffic Calming**

Motion to direct Public Works to enter the speed hump balloting process for Whitlock Drive, Hickory Drive, Heathersett Drive, Carriage Oaks Drive, Lee's Trace, North Hillcrest Drive, Sugar Springs Drive, Griggs Street, Woodvalley Drive, Chesterfield Place, Arden Drive, Maxwell Avenue, Northcutt Street and Devonwood Trail.

* **20130312 Traffic Calming in Church Street/Cherokee Street/Kennestone Area**

Motion to add the following intersections identified in the “Cherokee-Church Street Historic District & Kennestone Area Study” to the 13 intersections allocated within the 2011 SPLOST:

Cherokee Street at Sessions Street
Campbell Hill Street at Sessions Street
Tower Road at James Street

* **20130313 Receive and Appropriate Admin 6 Check**

Approval of an Ordinance amending the Fiscal Year 2013 General Fund budget to receive and appropriate \$1,681 from Josh Howland for an Administrative Policy No. 6 project at 583 Chickasaw Drive.

* **20130314 Receive and Appropriate LMIG Check**

Approval of an Ordinance amending the Fiscal Year 2013 budget to receive and appropriate a check from the Georgia Department of Transportation (GDOT) for asphalt resurfacing through the Local Maintenance and Improvement Grant (LMIG) program.

* **20130315 Church Street Mid-Block Crossing**

Motion to install a mid-block crossing on Church Street at Hansell Street as part of the Church Street Improvement project.

* **20130158 Harold Street, Cuthbert Street, Hunt Street and Avery Street Right of Way**

Motion to approve Quitclaim Deed from the City of Marietta to the Housing Authority of the City of Marietta, Georgia a/k/a Marietta Housing Authority, a body corporate and politic, releasing any interest that the City of Marietta has in the property described in the attached Quitclaim Deed, reserving, however, any rights that the City of Marietta may have regarding any easement, utilities, or other public rights in, across, through or under said property.

Mayor Tumlin disclosed that Smith, Tumlin and McCurley and Patrick, P.C. performed legal services in real estate for the Marietta Housing Authority (MHA) including the current land purchase contract with Traton. This presents a conflict while still owned by the MHA.

*** 20130396 Termination of Intergovernmental Agreement between the City of Marietta and the Marietta Housing Authority**

Motion to terminate the Intergovernmental Agreement between the City of Marietta and the Marietta Housing Authority dated November 11, 1998 being Contract No. 1948 in the records of the City of Marietta and recorded in Deed Book 13268, Page 3765, Cobb County, Georgia records.

Mayor Tumlin disclosed that Smith, Tumlin and McCurley and Patrick, P.C. performed legal services in real estate for the Marietta Housing Authority (MHA) including the current land purchase contract with Traton. This presents a conflict while still owned by the MHA.

*** 20130333 Inter-Local Agreement between Cobb County and Marietta for Resurfacing Projects**

Motion to approve an Inter-Local Agreement with Cobb County to resurface portions of Bells Ferry Road and Terrell Mill Road within the City Limits.

APPEARANCES:

OTHER BUSINESS:

* **20130383 25 Polk Street, 55 S. Marietta Parkway, 200 N. Marietta Parkway & 257 Church Street**

Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section Project.

25 Polk Street

55 S. Marietta Parkway

200 N. Marietta Parkway & 257 Church Street

25 Polk Street in exchange for \$500.00 from Atlanta Northern Traction Co. LLC
Stipulations: The easement expires within one year of starting construction on the property.

55 S. Marietta Parkway in exchange for \$4,515.00 from Wendy's International, LLC

Council member Goldstein has previously disclosed that he and/or an entity(s) that he owns, owns property(s) adjacent and/or near 25 Polk Street and 55 S Marietta Parkway, which may be a part of the project. Council member Goldstein abstaining on these two items.

200 N. Marietta Parkway & 257 Church Street in exchange for \$3,494.00 from The Presbyterian Church of Marietta, Inc.

* **20130384 531 Roselane Street and 598 Nancy Street**

Motion to authorize the acquisition of property owned by Decatur Properties IV, Inc. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20130386 26 Powder Springs Street**

Motion to authorize the acquisition of property owned by 3G Manning, LLLP on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

Council member Goldstein has previously disclosed that he and/or an entity(s) that he owns, owns property(s) adjacent to the subject, which may be a part of the project. Council member Goldstein abstaining on this item.

* **20130387 530 Roselane Street**

Motion to authorize the acquisition of property owned by Carl J. Galgano on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20130388 380 N. Sessions Street and 395 Campbell Hill Street**

Motion to authorize the acquisition of property owned by Nicholas Ziamis on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

- * **20130417** Motion to accept the following donations of sections of properties necessary for the purpose of constructing the South Marietta Parkway Sidewalk Project:

749 S Marietta Parkway from Southern Cornerstone, Inc.

951 S Marietta Parkway from TT Investment Properties, LLC

997 S Marietta Parkway from RJV Corporation

1043 S Marietta Parkway from Alexander L. Fowler

1067 S Marietta Parkway from John Peacock

1077 S Marietta Parkway from Gregory R. Bishop and Hilda D. Bishop

Stipulations:

1. Existing gravel turn around area to be removed during the pipe installation
2. Seeded and mulched all disturbed areas
3. Remove asphalt patching by concrete.

1115 S Marietta Parkway from Edwin Ross Lang

- * **20130418** **140 Lacy Street and 355 Tower Road**

Motion authorizing acquisition of the property at 140 Lacy Street and 355 Tower Road from WellStar Health System, Inc. for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section in exchange for \$176,700.00.

Council member Johnny Sinclair previously disclosed that he serves on the Kennestone Regional Board.

- * **20130355** **BLW Actions of the April 8, 2013**

Review and approval of the April 8, 2013 actions and minutes of the Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES: